

REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested. After entry of the foregoing amendment, Claims 1-7, 9-19, and 21-24 remain pending in the present application. No new matter has been added.¹

By way of the summary, the Office Action presents the following issues: the Office did not consider the references cited on the Form PTO 1449 filed July 13, 2005; the Office objected to Claims 1-20 as reciting means not specifying a function; Claim 10 stands rejected under 35 U.S.C. § 112, second paragraph, as indefinite; Claims 1-25 stand rejected under 35 U.S.C. § 102(e) as anticipated by Gavish (U.S. Patent Application Publ'n No. 2004/0116784 A1, hereinafter "Gavish '784"); Claims 1-17 and 21-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Gavish (U.S. Patent No. 5,076,281, hereinafter "Gavish '281"); Claims 1-4, 7-10, 16-17, and 21-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Mault (U.S. Patent Application Publ'n No. 2001/0044588 A1); Claims 1-4, 7-10, 16-17, and 21-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Tacklind et al. (U.S. Patent No. 5,626,144, hereinafter "Tacklind").

FORM PTO 1449

The Office did not consider the references cited on the Form PTO 1449 filed July 13, 2005. In this regard, it is noted that the Form PTO 1449 was submitted along with an International Search Report for corresponding Application No. PCT/JP2003/016729. That International Search Report indicates the degree of relevance of the references included on the Form PTO 1449 filed July 13, 2005.

¹ The amendments to Claims 1 and 21 find support at least in Figure 4 and in its accompanying text in the specification. The amendments to Claims 7 and 22 find support at least in Claim 8 and in Figure 6 and in its accompanying text in the specification. The amendments to Claims 16-18 and 23 find support at least in Figure 7 and in its accompanying text in the specification. The amendments to Claims 19 and 24 find support at least in Claims 20 and 25.

With regard to information listed on the Information Disclosure Statement, the Office is reminded that,

Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, **the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report** or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an “X”, “Y”, or “A” indication on a search report.²

Applicants respectfully submit that the requirement for a concise explanation of relevance has been satisfied. Accordingly, Applicants request consideration of the references included on the Form PTO 1449 filed July 13, 2005.

CLAIM OBJECTION

The Office objected to Claims 1-20 as reciting means not specifying a function. In particular, the Office identified the words “detecting,” “instructing,” and “reproducing” as not specifying a function.³ Applicants respectfully traverse that objection.

In explaining the basis for the present objection, the MPEP clarifies that,

For example, the phrase “latch means” is definite because the word “latch” conveys the function “latching.” In general, if the phrase can be restated as “means for _____,” and it still makes sense, it is definite. In the above example, “latch means” can be restated as “means for latching.” **This is clearly definite.**⁴

It is respectfully submitted that each of the words identified by the Office Action conveys a function. For example, in Claim 1, the recited “reproducing means . . .” can be restated as “means for reproducing . . .” Thus, it is submitted that Claims 1-20 are definite. Accordingly, Applicants respectfully request the withdrawal of the objection to Claims 1-20.

² MPEP § 609.04(a)(III) (emphasis supplied).

³ Office Action at 2, ll. 9-11.

⁴ § 706.03(d) (emphasis supplied).

REJECTIONS UNDER 35 U.S.C. § 112

Claim 10 stands rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants have amended dependent Claim 10 to recite the instructing means. Accordingly, Applicants respectfully request the withdrawal of the rejection of Claim 10 under 35 U.S.C. § 112, second paragraph.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-25 stand rejected under 35 U.S.C. § 102(e) as anticipated by Gavish '784. Claims 1-17 and 21-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Gavish '281. Claims 1-4, 7-10, 16-17, and 21-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Mault. Claims 1-4, 7-10, 16-17, and 21-22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Tacklind. In light of the several grounds of rejection on the merits, independent Claims 1, 7, 16-19, and 21-24 have been amended to clarify the claimed invention and to thereby more clearly patentably define over the applied references.

Amended Claim 1 recites an apparatus, including, in part, “instructing means for outputting a signal of a period corresponding to the predetermined period, for receiving a discrete input based on the signal, and for starting a reproduction of said data based on a timing of said discrete input.” Applicants respectfully submit that Gavish '784, Gavish '281, Mault, and Tacklind fail to disclose or suggest those features.

Gavish '784, Gavish '281, Mault, and Tacklind describe conventional devices that process a user's attributes. Those references are not believed to disclose or suggest the features of the instructing means recited in amended Claim 1.

Accordingly, it is respectfully submitted that independent Claim 1 (and all associated dependent claims) patentably distinguishes over Gavish '784, Gavish '281, Mault, and Tacklind.

Applicants further submit that independent Claims 16-18, 21, and 23 are allowable for the same reasons as discussed above with regard to Claim 1 and for the more detailed features presented in those claims.

Amended Claim 7 recites an apparatus, including, in part, “means for detecting an interval of said audio or video data having a duration during which said audio or video has a low energy . . . wherein the means for detecting delays the timing by the duration of the interval.” Applicants respectfully submit that Gavish ‘784, Gavish ‘281, Mault, and Tacklind fail to disclose or suggest those features.

Gavish ‘784, Gavish ‘281, Mault, and Tacklind describe conventional devices that provide notifications based on a user’s attributes. Those references are not believed to disclose or suggest the features of the means for detecting recited in amended Claim 7.

Accordingly, it is respectfully submitted that independent Claim 7 (and all associated dependent claims) patentably distinguishes over Gavish ‘784, Gavish ‘281, Mault, and Tacklind.

Applicants further submit that independent Claim 22 is allowable for the same reasons as discussed above with regard to Claim 7 and for the more detailed features presented in Claim 22.

Amended Claim 19 recites an apparatus, including, in part, “control means . . . for allowing said recording means to record said detected organic information together with said audio or video data.” Applicants respectfully submit that Gavish ‘784 fails to disclose or suggest those features.

Gavish ‘784 describes a device that records a user’s attributes. Gavish ‘784 is not believed to disclose or suggest the features of the control means recited in amended Claim 19.

Accordingly, it is respectfully submitted that independent Claim 19 patentably distinguishes over Gavish ‘784.

Applicants further submit that independent Claim 24 is allowable for the same reasons as discussed above with regard to Claim 19 and for the more detailed features presented in Claim 24.

CONCLUSION

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the present application, including Claims 1-7, 9-19, and 21-24, is patentably distinguished over the cited art and is in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Brian R. Epstein
Registration No. 60,329